

REMARKS

Claims 1 - 33 remain active in this application. Editorial revisions made where seen to be appropriate to improve translation accuracy. Claim 21 has been amended to improve descriptiveness. No new matter has been introduced into the application.

Restriction has been required between the inventions, as identified by the Examiner, recited in the claims of Group I, claims 1 - 17, said to be classifiable in class 716/5; and Group II, claims 18 - 32 (sic: 18 - 33), said to be classifiable in class 716/4. A provisional election has been made, with traverse, above.

In regard to the traverse of the requirement for restriction, it is respectfully submitted that the Examiner has not made a *prima facie* demonstration of either distinctness of the identified inventions or a serious burden of Examination in the absence of such a requirement. Therefore, the Examiner has not demonstrated justification for making the requirement.

In regard to distinctness of inventions, while the Examiner is correct in noting that inventions related as process and apparatus for the practice of the process can be shown to be distinct if the process can be performed by a materially different apparatus from that claimed or by hand. However, to make such a showing, it is incumbent on the Examiner to point out such a materially different apparatus or how the process could be performed by hand and the Examiner has not even colorably done so but merely asserted that the process could be so performed. That this is the case is by no means evident how steps such as, for example, step b.) of claim 18, involving specifying fault terminals for producing fault terminal information on different time planes, or step b-1) to b-5) of claim 19 involving memory operations could be done by hand.

Therefore, it is respectfully submitted that the Examiner's discussion of distinctness of the inventions identified is incomplete and illusory and that a *prima facie* demonstration of distinctness has not been made in support of the requirement for restriction.

In regard to serious burden of examination, it is noted that the inventions identified by the Examiner are classifiable in related subclasses of a common class which is respectfully submitted to be insufficient to establish a separate status in the art or divergent searches. Moreover, while the Examiner has asserted that a search appropriate for Group I is not required for Group II, that assertion is believed to be at least questionable since an apparatus which performed the method would seem to be highly relevant to the examination of claims to the method. Additionally, relevant methods could be cross-referenced in corresponding apparatus subclasses; indicating similar searches for the identified inventions. Further, other than the noted broad assertion, the Examiner has not pointed to any particular art area required for either invention where no art relevant to the other would be expected. See MPEP §808.02(C). On the contrary, it appears, particularly from the similar classification asserted by the Examiner, that the searches for the respective identified inventions would tend to be congruent rather than divergent and the Examiner's broad assertion would only be true if anticipatory art was found for the method outside of apparatus search areas. Therefore, it is also respectfully submitted that the Examiner has also failed to make a *prima facie* demonstration of a serious burden in support of the requirement.

Since the Examiner has failed to make a *prima facie* demonstration of either a serious burden or distinctness of identified inventions, the Examiner has shown no justification for the requirement. Therefore,

it follows that the requirement is substantively in error as well as being incomplete to demonstrate its propriety. Accordingly, reconsideration and withdrawal of the requirement are respectfully requested.

Since all requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



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